- 124. Others such as LiTel, Cox, and PCN America oppose allowing LECs to hold PCS licenses in their service areas regardless of whether the LEC also operates a cellular service in the area. These parties express concern that LECs have the market power and incentive to block development of competitive PCS services. Metrocall claims that allowing LECs or cellular operators to hold PCS licenses in a market where they now operate would provide them with a preference by reducing the number of parties available to provide competitive or substitute services in a given market.
- 125. APC, Horizon Cellular Group, NTIA and others oppose setting aside PCS spectrum for LECs. NTIA states that none of the spectrum allocated for PCS should be set aside for LECs. 97 On the other hand, Centel and others argue that one of the PCS frequency blocks in each service area should be reserved exclusively for LECs. Hughes Network Systems, Inc. (Hughes) and others believe LECs should not be limited to only 10 MHz. Hughes argues that LECs should be afforded the same eligibility as other parties for a full PCS license because they have a proven record of interest, experience, and accomplishment. It also believes that a full license may be needed to achieve universal coverage, which it claims is necessary for a viable PCS service.
- 126. While we recognize the concerns expressed about LEC participation in PCS, we also find that allowing LECs to participate in PCS may produce significant economies of scope between wireline and PCS networks. We believe that these economies will promote more rapid development of PCS and will yield a broader range of PCS services at lower costs to consumers. In addition, allowing LECs to provide PCS service should encourage them to develop their wireline architectures to better accommodate all PCS services. We also conclude, based on the record, that the cellular-PCS policies indicated above are adequate to ensure that LECs do not behave in an anticompetitive manner. Thus, no new separate subsidiary requirements are necessary for LECs (including BOCs) that provide PCS.

<sup>&</sup>lt;sup>97</sup> More generally, NTIA argues that no spectrum should be set aside for any particular category of potential PCS applicants.

See generally Computer III Remand Proceedings, 6 FCC Rcd 7571, 7614-26 (1991), appeal pending sub nom., People of the State of California v.. FCC, No. 92-70083 (9th Cir. filed Feb. 14, 1992). With regard to the structural separation requirement for BoCs and their cellular operations, see 47 C.F.R. \$ 22.901(b), we do not believe the record in this proceeding provides enough information for us to eliminate the requirement at this time as advocated by NTIA. Under our PCS rules, however, BoCs are free to choose whether or not they will provide PCS

Indeed, by seriously limiting the ability of LECs to take advantage of their potential economies of scope, such requirements would jeopardize, if not eliminate, the public interest benefits we seek through LEC participation in PCS. In addition, we do not believe that commenters have justified imposing additional cost-accounting rules on LECs that provide PCS service. Therefore, we will generally permit LECs to be eligible for PCS licenses. However, in areas where a LEC has attributable cellular interests (whether or not through a separate subsidiary), it will be eligible only for the PCS frequency blocks available for licensing to a cellular operator in its service area (frequency blocks E, F, and G).

opportunity to participate in the provision of PCS services, we agree with those commenting parties that suggest that a specific set-aside for LECs would be unwise and unwarranted. We further believe that such a set-aside could defeat some of the benefits of LEC participation. For example, such an approach would not encourage LECs to develop their wireline architecture to better accommodate all PCS services but rather could lead to architectures optimized solely for use of the set-aside spectrum. We find no compelling rationale in the record that the public interest would be furthered by such a set-aside for LECs and will not adopt such an approach.

#### 2. Licensing Mechanism

128. In the <u>Notice</u>, we described the various options available for selecting among mutually exclusive PCS license applications, including comparative hearings, lotteries, and competitive bidding. We tentatively concluded that comparative hearings would not be an appropriate PCS licensing mechanism because such a procedure was likely to be slower and more costly to both government and PCS applicants.

129. Section 6002 of the Budget Reconciliation Act authorizes the Commission to employ competitive bidding procedures to choose among mutually exclusive applications for licenses to use the electromagnetic spectrum provided that the service is one in which the licensee receives compensation from subscribers for the use of those frequencies. In addition, the Budget Reconciliation Act directs the Commission to implement competitive bidding procedures by rule making within 210 days of the date of enactment. Inasmuch as these amendments require a new proceeding, we will defer resolution of the issues relating to the PCS licensing mechanism and competitive bidding to the

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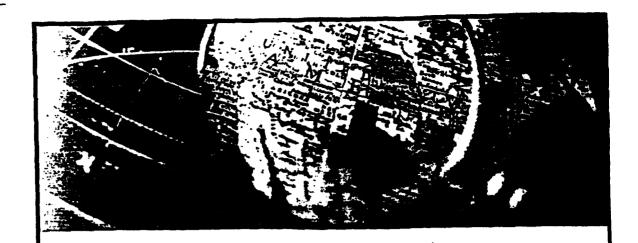
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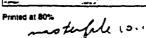
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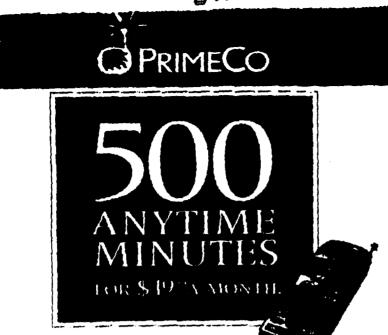
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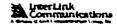
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